United Nations A/HRC/39/73

General Assembly

Distr.: General
15 August 2018

Original: English

Human Rights Council
Thirty-ninth session
10–28 September 2018
Agenda item 10
Technical assistance and capacity-building

Report of the Special Rapporteur on the situation of human rights in Cambodia

Note by the Secretariat

The Secretariat has the honour to transmit to the Human Rights Council the report of the Special Rapporteur on the situation of human rights in Cambodia, Rhona Smith, submitted pursuant to Council resolution 36/32. It covers the period from June 2017 to June 2018, during which the Special Rapporteur undertook two missions to Cambodia.

The Special Rapporteur observes that strong economic growth has provided resources to improve social protection and access to education, decent work and health care. However, she expresses concerns about regression of political rights and the enjoyment of fundamental freedoms, which continue to have implications for the protection and promotion of all human rights in the country. Human rights defenders are particularly at risk.

GE.18-13459(E)

1813459

Please recycle

I. Introduction

1. The present report is submitted pursuant to Human Rights Council resolution 36/32. During the year under review, the Special Rapporteur monitored the situation of human rights in Cambodia, receiving information from different stakeholders, including the Government, civil society organizations and private citizens. She undertook two missions to Cambodia: from 8 to 17 August 2017 and from 5 to14 March 2018. The present report covers the period from June 2017 to June 2018, drawing on the findings from the two missions as well as other information received throughout the year.

2. The Special Rapporteur is grateful to the Government for its cooperation during her missions.

3. During the missions, the Special Rapporteur met with government representatives and other stakeholders, including civil society organizations, the United Nations country team and other development partners. In particular, the Special Rapporteur met with Samdech Heng Samrin, President of the National Assembly; Samdech Kralahom Sar Kheng, Deputy Prime Minister and Minister of Interior; Prak Sokhonn, Senior Minister and Minister of Foreign Affairs and International Cooperation; Aun Pornmoniroth, Senior Minister and Minister of Economy and Finance; Ang Vong Vathana, Minister of Justice; Hang Chuon Naron, Minister of Education, Youth and Sports; Mam Bunheng, Minister of Health; Vong Sauth, Minister of Social Affairs, Veterans and Youth Rehabilitation; Keo Remy, Chair of the Cambodian Human Rights Committee; Sik Bun Hok, President of the National Election Committee; You Bun Leng, President of the Court of Appeal; You Ottara, Deputy President of the Supreme Court; Sou Arafad, Deputy Governor of Battambang Province; and Om Reatrey, Deputy Governor of Banteay Meanchey Province. She also met with the then leader of the now dissolved Cambodia National Rescue Party (CNRP), Kem Sokha, in August 2017, as well as a range of political actors and other stakeholders.

4. It was regrettable that during both missions again she was denied confidential interviews with detainees and, indeed, access to Correctional Centre 3 to visit Kem Sokha. The Special Rapporteur visited the Phnom Penh Social Affairs Drop-in Centre (Prey Speu Centre), Correctional Centres 1 and 2 and Phnom Penh Capital Prison. During field visits to Battambang and Banteay Mancheay Provinces in August 2017, she was invited to visit drug rehabilitation centres and visited Chivit Thmey Drug Rehabilitation Centre.

5. Finally, the Special Rapporteur is encouraged by the Government's willingness to respond to communications submitted by special procedure mandate holders and welcomes this opportunity for deepening dialogue and understanding.

II. General situation of human rights in Cambodia

6. The year under review was marked by significant political developments. It began with the local-level election on 4 June 2017 and ended as the country neared the general (National Assembly) election on 29 July 2018. The commune/*sangkat* elections were orderly and peaceful, with some 90 per cent of the electorate casting votes. Unfortunately, subsequent events meant that the results of these elections were changed dramatically, albeit in accordance with new laws. The President of the former main opposition party, CNRP, Kem Sokha, was detained in September on treason-related charges. On 16 November, the Supreme Court ordered the dissolution of CNRP and banned 118 senior members from political activity for five years. The CNRP seats in the National Assembly and positions at the communal level were then reallocated to other parties, principally the ruling Cambodian Peoples' Party (CPP).

7. The political situation continues to have implications for the protection and promotion of all human rights in the country. Human rights defenders are particularly at risk in this twentieth anniversary year of the adoption of the Declaration on the Right and Responsibility of Individuals, Groups and Organs of Society to Promote and Protect Universally Recognized Human Rights and Fundamental Freedoms (Declaration on Human

Rights Defenders). In particular, a letter from the Minister of Interior dated 2 October 2017 requires non-governmental organizations (NGOs) to provide three-day prior notification to authorities for any events. The Government has indicated that this is to provide coordination, security, safety and order to civil society organization activities. This stipulation is not contained in the Law on Associations and Non-Governmental Organizations or the Law on Peaceful Demonstrations. Police systematically monitor civil society events. The Government has revoked the licences of some independent radio stations, independent media have had to shut down due to large tax bills and independent journalists have been charged with "espionage". In May 2018, the Inter-Ministerial Proclamation (Prakas) on Publication Controls of Website and Social Media Processing via Internet in the Kingdom of Cambodia was adopted. The proclamation seeks to prevent publications or news through social media and the Internet on very broad grounds, such as "deliberately causing chaos" or "harming the national economy" or "traditional culture".

8. During the interactive dialogue with States parties and other stakeholders at the thirty-sixth session of the Human Rights Council, many States invited the Special Rapporteur to pay particular attention to the human rights impact of the political situation in Cambodia ahead of the 2018 national elections. The present report was finalized and submitted before the date of the elections. However, the Special Rapporteur analyses the impact of the elections and electoral processes on human rights and fundamental freedoms in an addendum.

9. Cambodia remains a member of the Association of Southeast Asian Nations and a lower-middle-income country. According to current estimates, it has maintained an economic growth rate of almost 7 per cent, which is likely to continue for at least the next two years. The Government has not approved any figures after 2014.

10. The Government has committed to finalize the localization of the Sustainable Development Goals by the end of 2018. There remains evidence of progress towards greater realization of several related rights and freedoms. For example, the country's strong economic growth and rapid development has provided resources to improve social protection and access to education, decent work and health care. However, challenges remain, not least with goal 16.

11. The 2030 Agenda for Sustainable Development explicitly recognizes that the promotion and protection of human rights is both a prerequisite to achieving the Sustainable Development Goals as well as a result. The principle of leaving no one behind is perhaps the clearest expression of this link. Indeed, respect for human rights is an integral part of ensuring lasting development and peace in Cambodia. Nevertheless, over the past year, government ministers, both during meetings and through the submission of official documents, have addressed comments to the Special Rapporteur that prioritize peace, stability and development over human rights. Respect for rights and freedoms are enshrined in the Cambodian Constitution and Cambodia has ratified almost all the core human rights treaties. Human rights cannot be selectively respected or ignored, and they must never be sacrificed. Peace without justice is unsustainable; development without freedom leaves people behind.

12. During the period 2017–2018, the Government of Cambodia has published several statements aimed at "clarifying and setting the records straight" on various issues related to human rights. It has criticized both the United Nations generally and special rapporteurs, without any evidence base. The Special Rapporteur has countered these criticisms directly with the Government and calls on the Government to remove such criticisms from official publications and statements and undertake not to repeat them. Such action would help to promote constructive and meaningful dialogue on human rights issues.

III. Update on recommendations in the previous report

13. The Special Rapporteur made a series of recommendations in previous reports. With a view to maintaining a dialogue with the Government, she reviews the recommendations made in her previous report to the Council (see A/HRC/36/61, para. 68) as follows:

(a) It is understood that recent discussions on implementation of the recommendations of the universal periodic review have focused on preparation of the next report of Cambodia under the third cycle, which is due for review early in 2019. The Special Rapporteur welcomes the submission this year of the combined fourteenth to sixteenth periodic reports to the Committee on the Elimination of Racial Discrimination and the sixth periodic report to the Committee on the Elimination of Discrimination against Women;

(b) The Sustainable Development Goals localization plan was supposed to be finalized at the end of the second quarter of 2018; however, the national high-level committee, at its meeting on 24 April 2018, requested revisions and a reduction of the number of indicators. Approval of the Council of Ministers is now scheduled to be sought during the third quarter of 2018. An action plan for ensuring peace, justice and strong institutions (goal 16), with the elaboration of comprehensive indicators to measure achievement, would support the work of the ministries, including, for example, the Ministry of Justice, in strengthening the independence of the courts. The localization plan should also include action plans for reducing poverty (goal 1), ensuring health and well-being (goal 3), ensuring full and productive work for all (goal 7), addressing food security and clean water (goals 2 and 6) and reducing inequalities (goal 10). These goals are key for protecting marginalized persons and promoting their enjoyment of rights and freedoms;

(c) The process for granting communal land titles remains unchanged. The Special Rapporteur encourages further discussions on refining the process and accelerating recognition of indigenous groups and their land claims;

(d) Court fees are still not publicly displayed in all courts, as the Ministry of Justice is reportedly finalizing the list;

(e) Notices that no payments are to be paid to staff in prisons are not displayed at all detention centres; posters listing detainees' rights have been distributed but are not displayed at all detention centres (some are displayed only in English);

(f) Pretrial detention and custodial sentences continue to be extensively used. The Special Rapporteur reminds the Government that a fair trial must be held within a reasonable time of the initial arrest. This is particularly pressing when people are held in pretrial detention. In view of the dramatic increase in prison overcrowding (due in part to the anti-drug campaign), the Special Rapporteur urges the Government to reconsider the plans to increase the use of non-custodial sentencing in those situations in which it is deemed appropriate. The Special Rapporteur also encourages the Government to promote the use of the pretrial detention form to ensure appropriate reflection by judges on whether pretrial detention is appropriate (article 203 of the Criminal Procedure Code notes that provisional detention should be exceptional);

(g) Some human rights defenders have been released from pretrial detention although they remain under judicial supervision; other defenders continue to be held in pretrial detention. The Special Rapporteur, while welcoming the release of the five serving and former staff members of the Cambodian Human Rights and Development Association (ADHOC) in June 2017, reiterates her call for the charges against them to be definitively dropped. It is a violation of the right to be tried without undue delay for charges to linger indefinitely and be reactivated seemingly at random. Further high-profile examples include Tep Vanny (2013 charges reactivated in 2017 with arrest, conviction and custodial sentence) and Nhek Bun Chhay (2007 charges reactivated in 2017 with arrest in August, released under judicial supervision in May 2018);

(h) Measures on the human rights environment around the elections are outlined below and in the addendum. There is concern over threats, arrests and acts of intimidation in the current period.

14. With regard to the recommendations contained in paragraph 69 of her previous report:

(a) Work remains to be done on strengthening judicial mechanisms for addressing domestic violence and trafficking. Concerns continue to be raised over the

treatment of women victims by law enforcement officials, including in cases of rape, assault and murder;

(b) Implementation of the Law on Peaceful Demonstrations has been impeded by the Ministry of Interior instruction of October 2017, referred to above. Irrespective of the intention, the instruction is being applied as if it were an approval process and a restriction on peaceful gathering, trainings and meetings. There are no such provisions under the Law on Associations and Non-Governmental Organizations or the Trade Union Law;

(c) Provisions of the Criminal Code are being used to inhibit freedom of expression and debate, including provisions on conspiracy. Amendments to the Constitution and the Criminal Code made in February 2018 use broad terminology and need more precise language to meet international standards and avoid the risks to freedom of speech. Areas of concern include the lèse-majesté provisions and requirement for parties and individuals to "primarily uphold the national interest" and oppose "interference from abroad";

(d) Sixteen courts of first instance have installed the criminal case database. However, there has been no progress on publishing decisions or on developing draft guidelines on evidentiary requirements. The Cambodia Office of the United Nations High Commissioner for Human Rights (OHCHR), the Ministry of Justice and the Supreme Council of the Magistracy organized two regional trainings for judges focusing on legal reasoning for decisions on pretrial detention;

(e) People continue to be held involuntarily in "drop-in" centres, including the Prey Speu Centre. However, the number of persons held in detention centres in connection with alleged use of drug substances continues to increase. New facilities being built in Kandal Province to rehabilitate persons with psychosocial disabilities have not yet opened.

IV. Vulnerable groups and discrimination

15. International human rights are predicated on the premise that all persons should enjoy all freedoms and rights without discrimination. In all societies, however, there are marginalized groups whose enjoyment of rights is compromised in some way. Sustainable Development Goal 10 is aimed at reducing inequality within and between countries. International law is clear that rights and freedoms should be enjoyed without distinction of any kind, including on the grounds of race, colour, sex, language, religion, political or other opinion, national or social origin, property, birth, sexual orientation, gender identity, disability or other status. In her reports (A/HRC/33/62 and A/HRC/36/61), the Special Rapporteur has considered the situation of indigenous peoples, women, prisoners, persons in street situations, minorities and children. In August 2017, her mission had a subfocus on vulnerable children (in institutions and trafficked). In this section the Special Rapporteur provides findings and updates on vulnerable groups in Cambodia. Considering marginalized groups is especially important as the Government is in the process of finalizing its localization plan for the Sustainable Development Goals to ensure that no one in Cambodia is left behind.

A. Children

16. Cambodia has a growing population of young people and an ever-more-mobile population. Children are inherently vulnerable, especially when young, and often suffer multiple disadvantages as facets of marginalization intersect. The interdependency and interrelatedness of rights means that children's enjoyment of rights is often linked to that of their primary caregiver. Consequently, children whose parents are at risk of being left behind are themselves particularly vulnerable. Cambodia has ratified the Convention on the Rights of the Child, and its combined fourth to sixth periodic reports, due on 13 May 2018, is pending submission to the Committee on the Rights of the Child.

17. Education is especially relevant to children and to their development. Previous reports (A/HRC/30/58 and A/HRC/27/70) have addressed progress in education. Education

is becoming more accessible and available to all children in Cambodia. The Ministry of Education, Youth and Sports continues to invest in education throughout the country and works to eliminate corruption, for example, by eliminating cheating and related practices in end-of-school exams.

18. The Ministry reports continuing progress towards securing gender parity not only in education enrolment, but also completion. Beyond gender equality, some children are in danger of being left behind on the basis of ethnicity or disability. While there is progress with the rolling out of the multilingual education plan of action, the Special Rapporteur highlights ongoing concerns with the situation of children from indigenous and ethnic minority groups, including children of Vietnamese descent, who still suffer disadvantages, including in relation to the availability, accessibility, acceptability and adaptability of education. Information has been received that children have been denied access to school due to the lack of legal documents of their ethnic Vietnamese parents or the revocation of those documents under subdecree 129. Concerning education and health, it is also clear that children with disabilities do not receive equal access to goods, services or facilities. For example, physical access to buildings remains a problem as does the availability of information in sign language and Braille.

19. Health care of children and mothers is crucial to the development of the child. New social protection initiatives and pilots are discussed below. The Ministry of Health is working at commune level throughout the country to ensure that access to primary health care is available to all. Infant and child mortality rates continue to decrease, regional transmission of measles has been eliminated completely in Cambodia, the use of anti-viral therapy limits transmission of HIV/AIDS from mother to child during birth and health equity funds help to ensure free access to health care for the poorest families, including their children. The Government has also embarked on a human papilloma virus vaccination programme for girls to combat cervical cancer. However, child malnutrition, especially in rural areas, remains of concern.

20. Ensuring all children are registered at birth is a major milestone in recognizing the rights of the child. In this regard, the removal in 2017 of charges for birth registration up to 30 days after birth is welcome.

21. In the absence of a comprehensive child protection system, and no social workers at the commune or district levels, cases of child abuse and neglect go undetected and unreported. The commune committees for women and children are important, within their capacity, at the local level. Although training of committee members has been undertaken, the Special Rapporteur is concerned that this may not be sufficient to offer adequate, acceptable, adaptable child-centred protection.

22. In particular, ever more children are being left with elderly relatives when their parents become migrant workers, moving to factories or construction sites in Cambodia or seeking employment overseas. Information received suggests heightened vulnerability for some of these children: some are abused, others turn to drugs and other substances, some end up in street situations. Children who suffer physical or psychological abuse within the community or family frequently have no means of seeking assistance or safety. The Government's Violence against Children Survey and Action Plan is a step in the right direction, but victims of violence all too frequently remain in the household with the perpetrator and the perpetrator is not brought to justice in accordance with the Law on the Prevention of Domestic Violence and the Protection of Victims.

23. Cambodia has many children living in institutional settings. Efforts to restrict "orphanage tourism" have been successful and the Ministry of Social Affairs, Veterans and Youth Rehabilitation is now focusing on reducing the number of children in care. The Action Plan for Improving Child Care, in cooperation with the United Nations Children's Fund (UNICEF), civil society organizations and the Partnership Programme for the Protection of Children, is aiming at reducing by 30 per cent the number of children in institutional settings in five provinces, reintegrating them into their communities. This is a positive pilot programme from which many lessons for the future will undoubtedly emerge.

24. Poverty is a key factor in many children being in residential care, working and being trafficked. It follows that the work on returning children to their families should address

several of the targets of the Sustainable Development Goals, including reducing poverty (target 1.2), implementing nationally appropriate social protection systems (target 1.3) and promoting social, economic and political inclusion of all (target 10.2). It is of primary importance that programmes prioritize the best interest of the child.

25. There is no comprehensive network of government social workers in Cambodia. Ideally, there should be at least one social worker per commune, supported by a team of social workers at the district level. Much child protection and rehabilitation work is undertaken by social workers funded by NGOs and by United Nations agencies. The Special Rapporteur encourages the Government, in furtherance of the National Social Protection Policy Framework 2016–2025, to consider actively recognizing, promoting and supporting social work education and career opportunities. Trained social workers can work with the commune committees for women and children in the communes to better protect children and other vulnerable people.

26. The Ministers of Justice and of Social Affairs, Veterans and Youth Rehabilitation continue to work on the joint implementation of the Law on Juvenile Justice promulgated in 2016. The Special Rapporteur welcomes this law but reminds the Government that it must take care to ensure that it implements the law in compliance with the Convention on the Rights of the Child and related guidelines. It is necessary to fully resource the new juvenile justice system, including the new centres for rehabilitation, which must conform to the relevant United Nations standards such as the United Nations Standard Minimum Rules for the Administration of Juvenile Justice (the Beijing Rules).

27. There have been reports of delays in accurately ascertaining the ages of juveniles following arrest to determine whether they are below or above the minimum age of criminal responsibility — or indeed whether they are juveniles or young adults. With respect to children who are witnesses and victims of crimes, the Special Rapporteur has received information that few courts have the necessary screens and audiovisual facilities to permit remote testimony. Children therefore risk further exposure to the alleged perpetrator and revictimization.

28. The Special Rapporteur remains concerned that security forces and families are taking juveniles to drop-in and rehabilitation centres, as well as to residential care institutions. While this can be a consequence of the anti-drug campaign, there are worrying reports that children with serious disabilities are being detained in these facilities although they have no history of drug or substance dependency. This situation emphasizes the need for comprehensive social and child protection systems in Cambodia and appropriately trained social workers in all communes. However, it also raises issues of comprehensive support for children with disabilities and their families.

29. It is hoped that the Government will embed a child rights-based approach in all matters related to children. Children in street situations and in institutional settings, unaccompanied migrant children and trafficked children are especially vulnerable and require a holistic approach to their safety and well-being. The rehabilitation and reintegration into communities of juvenile drug and substance users with dependency problems and convicted juveniles must be subject to careful management and ongoing support to ensure genuine rehabilitation and reintegration. It is necessary to ensure adequate awareness-raising on children's rights and the Law on Juvenile Justice among all law enforcement officials and judicial officers.

B. Indigenous peoples

30. The Special Rapporteur is pleased to note that the Ministry of Education, Youth and Sports continues to enhance education provision, including bilingual education for indigenous peoples. The Special Rapporteur observed an awareness across ministries that indigenous peoples are still being left behind. She notes that specific attention to ensuring the rights of indigenous peoples in all action plans and cross-ministerial operations should contribute to a more holistic response to issues affecting the rights of indigenous peoples.

31. Concern remains over land titling for indigenous peoples. In August 2017, the Special Rapporteur learned of the Por indigenous people in Battambang Province, whose communal land titling process could not proceed because the land was still waiting to be demined. In this connection, it is noted that Cambodia has added a sustainable development goal 18 on removing unexploded ordnance.

32. In Stung Treng Province, the Lower Sesan II hydroelectric project has resulted in the Bunong indigenous people losing their homes and much of their spiritual forest and burial grounds to the reservoir's water, leaving them at risk of losing their livelihoods. In Preah Vihear Province, the Kui indigenous people have had some of their farmland and spiritual forest cleared by sugar cane companies. Both the Bunong and the Kui indigenous peoples are waiting to have their land registered as communal land.

33. The Special Rapporteur repeats her recommendation that the Government consider simplifying the communal land titling process to make it more accessible and affordable for indigenous communities. As of June 2018, of the estimated 455 indigenous communities in Cambodia, 141 had been recognized as indigenous by the Ministry of Rural Development; of these, 128 had been legally registered by the Ministry of Interior, of which only 24 had been issued collective land titles.

C. Asylum seekers and refugees

34. While Cambodia has offered itself as a place of refuge to those being resettled from Nauru, there continue to be problems for Montagnards who sought asylum in Cambodia. In August, the Special Rapporteur expressed concerns about the situation of 36 Montagnards for whom the Office of the United Nations High Commissioner for Refugees had offered to find a solution outside of Cambodia, based on the seriousness of their asylum claims. The Government of Cambodia has to date not agreed to facilitate their transit to a safe third country, and indeed announced plans for their deportation back to Viet Nam in September. Cambodia should respect the principle of non-refoulement and ensure that no one is forcibly returned to a country where they are in danger of persecution.

D. Persons in street situations

35. In August 2017, the Special Rapporteur was very concerned after her visit to the Prey Speu Centre, particularly about the 544 people, including 6 children, then detained there. This was a substantial increase since her previous visit, and was partly attributable to the Government's anti-drug campaign. There was no visible improvement in the facilities, only more overcrowding. Since then, the Special Rapporteur has received reliable information indicating that children were no longer detained at the centre and that some structural improvements had been made such as the construction of basic bathrooms with running water and the installation of electricity and ceiling fans.

36. The Minister of Social Affairs, Veterans and Youth Rehabilitation explained that a new facility being built in Kandal Province should alleviate overcrowding at Prey Speu, providing appropriate facilities for the care and treatment of persons with psychosocial disabilities. This facility will not be ready until later in 2018.

37. Despite claims by the authorities that those "rounded up" and brought to the centre must remain there for a week to enable arrangements to be made with their families to collect them, most people who met with the Special Rapporteur had been there for considerably longer and many claimed they were being held against their will. This amounts to arbitrary detention: it is consistent neither with the concept of "drop in" nor with law. It is clear that in the case of children, the authorities must take care to determine the identity of the person and to verify the identity of a family member who wishes to collect them. However, in other cases people should be allowed to leave at will.

38. The Government is reminded that holding persons against their will means that drop-in centres fall within the international definition of detention centres and the Government must therefore take steps to ensure that the minimum standards of treatment

for detainees is met. This means that detainees must have access to clean drinking water, adequate nutritious food, adequate sanitation, ventilation and adequate health care including psychosocial support, as well as visitation and communication rights with their relatives. More pertinently, no one should be arbitrarily detained or locked up in rooms against their will.

39. The Special Rapporteur repeats her call for the Government to implement the recommendations of the National Conference on Persons in Street Situations held in 2015 and to ensure that drop-in centres are not used as detention centres but offer the necessary care, services and assistance to persons in street situations on a truly voluntary basis. She also recommends that the Government accurately identify each individual, systematically review the legal basis for their detention and work to ensure their release and return to their families and communities, including as well as their participation in social protection and livelihood programmes.

E. Drug and substance users with dependency problems

40. In January 2017, the Government commenced the first phase of its campaign against drugs. This programme is now in its second phase. A worrying consequence has been the explosion in the number of people held in prisons, social affairs centres and drug rehabilitation centres. The Government reports that in 2017, 17,795 people (including 1,584 females) were arrested in connection with drug offences: 9,590 (1,118 females) for drug trafficking; 7 (2 females) for drug processing/production; 1 male for substance planting; and 8,197 (464 females) for drug use. Within the first five months of 2018, anti-drug police dealt with 3,192 drug offences and arrested 6,367 people (including 557 females). Of these, fewer than half were sent for treatment; the rest were sent to prison. According to 2017 prison population statistics, among the total population of 28,414 prisoners, 51.7 per cent were detained for drug-related offences.

41. During the reporting year, the Special Rapporteur visited the Chivit Thmey Drug Rehabilitation Centre in Banteay Meanchey, the Prey Speu Centre, Correctional Centres 1 and 2 and the Phnom Penh Capital Prison. The Special Rapporteur observed a very large number of people being detained apparently due to the anti-drug campaign. Overcrowding is such that conditions in many places of detention breach Cambodian and international standards. Adequate food, clean water, sanitary facilities, exercise opportunities, room ventilation and health care are lacking. The system is simply overwhelmed. Given the number of institutional places where drug users may find themselves, the Special Rapporteur once again reminds the Government that if people are held against their will, the facility is de facto a place of detention as defined in the human rights standards accepted by Cambodia and that the families, legal counsels and others who may lend support should be allowed free access to those detained.

42. During the March 2018 mission, the Ministry of Interior informed the Special Rapporteur that the Government was building a rehabilitation centre in Preah Sihanouk Province where 2,000 drug users with dependency issues could be brought for treatment and vocational training and better reintegration services. With rehabilitation as a goal, it is important to ensure that adequate training and education are available, particularly for younger people, to enable successful reintegration into the community. Appropriate training and education should be provided by the Ministry of Labour and Vocational Training and the Ministry of Social Affairs, Veterans and Youth Rehabilitation and providing education opportunities through the Ministry of Education, Youth and Sports should be considered.

43. According to a Ministry of Health report of 26 January 2018, there are currently 419 centres offering community-based treatment for drug use and dependence substances. This includes services in two national hospitals and 24 provincial referral hospitals (representing 100 per cent of the Ministry's target). In addition, 72 district referral hospitals (85 per cent of the Ministry's target) and 321 commune health centres (27 per cent of the Ministry's target) provide such services. Basic training in treatment and care services for people with mental health and drug-dependency issues was provided.

44. The Ministry has also cooperated with international specialists to train 21 national master trainers on counselling, care and treatment services for substance abusers. The Special Rapporteur welcomes the plans of the Ministry to progress with work on counselling and recognized therapies to reduce cravings, particularly given the prevalence of methamphetamine use. These centres support those with drug dependencies who remain in communities.

45. The Special Rapporteur welcomes the awareness-raising programme on drug and substance abuse being implemented through the Ministry of Education, Youth and Sports.

F. Prisoners

46. The prevalence of pretrial detention, the lack of alternatives to custodial sentencing and the ongoing anti-drug campaign combine to increase the pressure on prisons. The Government notes a 35 per cent increase in the number of prisoners between 2016 and 2017, attributing this to the anti-drug policies. Overcrowding has reached such levels at some detention centres that prisoners can no longer be appropriately segregated; juveniles and adults are mixed, as are pretrial and post-conviction detainees. Conditions in prisons vary. The Ministry of Interior is aware of the problem and notes that it is working on improving access to recreation facilities and outdoor areas. In March 2018, the Special Rapporteur visited Phnom Penh Capital Prison. The conditions there were noticeably better in terms of numbers in cells than in Correctional Centres 1 and 2. As of 31 May 2018, according to government records, there were 28,829 people in detention, of whom only 7,684 had received a final, confirmed conviction. The Special Rapporteur was concerned to learn of plans for a pay-per-stay prison with improved conditions for those willing to privately fund their detention. All detainees should be afforded the same conditions of detention, conditions that meet, and even exceed, the minimum standards specified in the United Nations treaties Cambodia accepts and additional guidelines.

G. Persons with disabilities

47. Given the ongoing efforts of the Government and its chosen partners to clear land of unexploded ordnance and the deep psychological trauma suffered by so many during the Khmer Rouge era of Democratic Kampuchea and civil war periods, Cambodia should be a leading country in the rights of persons with disabilities.

48. While the Special Rapporteur received information about positive measures in place to protect the rights of persons with disabilities, the lack of centralized data on persons with disabilities and the lack of documentation certifying that they are persons with disabilities often hamper their access to specific services, particularly those related to health. Reports of discrimination at schools, health centres and private banks reinforce the need to continue building awareness among the population on the rights of persons with disabilities. Access to justice also remains a challenge for persons with disabilities, whether victims or alleged offenders.

H. Women

49. The Special Rapporteur reiterates her concerns about the issues of violence against women and diversion to mediation, the need for destigmatization of victims of domestic and sexual violence and education and awareness-raising on these matters, issues that were also raised by the Committee on the Elimination of Discrimination against Women in its examination of the report of Cambodia (CEDAW/C/KHM/CO/4-5). The Special Rapporteur welcomes the information provided by the Ministry of Women's Affairs that an increasing percentage of women who suffer intimate partner violence have been able to leave abusive relationships. However, she remains concerned at the number of cases in which women feel forced to live with an abuser and the instances of sexual violence and assaults, including rape, that go unpunished. Many sexual assaults, including alleged rapes, do not result in prosecutions; some cases remain open for several years after the claimed

attack. Women remain reluctant to report rapes and other sexual assaults. The Law on the Prevention of Domestic Violence and Protection of Victims is not fully aligned with the Convention on the Elimination of All Forms of Discrimination against Women and, unfortunately, its implementation still results in the diversion of domestic violence cases to mediation, especially when the victim so requests. The Special Rapporteur welcomes the fact that the Ministry of Women's Affairs is beginning an assessment of the effectiveness of the implementation of the law in order to improve its enforcement. Sexual harassment is not clearly defined in law beyond article 250 of the Criminal Code and awareness remains low.

50. The Special Rapporteur has raised the issue of the role of women in politics in previous reports (see A/HRC/33/62, para. 22 and A/HRC/36/61). She has reminded the Government that article 4 of the Convention on the Elimination of All Forms of Discrimination against Women permits temporary special measures to redress imbalances. The Committee on the Elimination of Discrimination against Women has twice recommended temporary special measures to increase the representation of women in decision-making positions, especially in politics, the judiciary and the foreign and diplomatic service (see CEDAW/C/KHM/CO/3, para. 14 and CEDAW/C/KHM/CO/4-5, para. 29). According to information available to the Special Rapporteur, as of June 2018 women made up 20 per cent of the National Assembly (before the 2018 July election) and 11 per cent of the Senate (after the February 2018 election). It is noted that there have been some efforts in the civil service to have more women in decision-making positions. These include increasing the retirement age for women civil servants on a voluntary basis and the setting of a target of 20–50 per cent of newly recruited civil servants being women. The Special Rapporteur encourages the implementation and monitoring of these targets.

51. In an effort to regulate surrogacy and provide relevant protection to the women and children involved in such arrangements, a draft law was completed in April 2018. The Special Rapporteur welcomes the fact that the draft was shared with her and she will provide comments to support its compliance with international human rights standards.

V. Strengthening social protection, health and education

52. In anticipation of the Sustainable Development Goals localization plan, the Special Rapporteur has been building on her work on marginalized groups, seeking to better understand resource mobilization and prioritization decisions in the context of the progressive realization of socioeconomic rights in Cambodia. Cambodia is still experiencing rapid and strong economic growth which has provided resources to improve social protection and access to education, decent work and health care. In March 2018, the Special Rapporteur met with the Minister of Economics and Finance and was impressed by the strategic plans being implemented to improve budget reporting and tie budgetary decisions to measurable outcomes. The need to prioritize investment in human rights and related Sustainable Development Goals should manifest itself in the localization plan.

53. The Special Rapporteur was encouraged by the Government's plans to develop social security and health equity funds and to work towards universal access to health care. A consequence of low public spending on health so far has been the extremely high burden of patient out-of-pocket health expenditure. Health expenditure is an issue for households and is the largest part of household non-food expenditure in Cambodia. Health care and social security are expensive but always a worthwhile investment by the Government in its people.

54. Furthermore, recent pilots have been undertaken on transferring funds to pregnant women and those who have recently given birth. The new maternity pay for women in the textile sector (120 per cent of salary for three months) is also positive. All such plans and strategies need to be adequately resourced and robustly monitored; in Cambodia, as around the world, pregnant women continue to lose their jobs for spurious reasons when their pregnancy is apparent or notified. The "official" reasons for this vary, but women ultimately lose their jobs, and the associated benefits, at a time when they and their children are especially vulnerable.

55. Despite the efforts of the Government, some people continue to find that they cannot access free health care services despite having the relevant National Social Security Fund and Health Equity Fund cards. Persons with disabilities are also affected. The Special Rapporteur encourages the Government to continue its investments in health, social security and education and to work across ministries and at all levels of government to ensure that these services are available, accessible, acceptable and of high quality for all Cambodians.

VI. Land

56. According to government figures, as of December 2017, the Government had issued titles for 4,881,582 plots of land, representing 66.4 per cent of the country's estimated 7 million parcels of land, with a target of 100 per cent by 2023. However, Cambodia continues to be marked by protracted land disputes that affect the basic rights of affected families and communities.

57. Dispute resolution mechanisms under different ministries and government bodies continue to operate in isolation, without transparent or participatory procedures and without minimum requirements for the fairness of the resolution of the land disputes and remedies. While some disputes, such as those relating to sugar concessions in Koh Kong, are being resolved, disputes relating to other sugar concessions in the Provinces of Kampong Speu, Preah Vihear, Koh Kong and Oddar Meanchey remain unresolved. The Government claims that these disputes have been and are being processed in a legitimate, accessible, transparent, predictable and rights-compatible manner. The Special Rapporteur notes that without a transparent, legitimate, accessible, predictable, equitable and rights-compatible process in the settlement of disputes with sugar companies, there is a risk of continued conflict and unrest.

58. The Special Rapporteur highlights the need for a coherent resettlement policy in Cambodia, including measures to ensure compensation for land expropriation taking into account the need for public consultative processes with communities and their representatives as well as civil society organizations. The lack of such a policy has contributed to the current situation in which, in many instances, basic legal and human rights obligations have been ignored and documentation, guidance and compliance with various approaches often lacking, resulting in adverse impacts on the livelihoods of relocated families and communities. The Special Rapporteur highlights the need for an independent assessment of resettlement sites in Cambodia with a view to improving the living conditions at those sites.

59. During the March 2018 mission, the Special Rapporteur learned that on 8 March 2018 in Snoul District, Kratie Province, members of the armed forces opened fire on protesters and destroyed personal belongings and shelters. The incident was related to a land dispute and unsuccessful negotiations on resettlement between the community, the Memot Rubber Plantation Company and the Kratie Provincial Working Group on Land Dispute Resolution. The Special Rapporteur followed the situation closely and raised concerns directly when meeting with government officials, including the Minister of Interior. The unrest in Kratie underlines the importance of understanding and addressing the root causes that lead to protests. These causes — often related to denial of human rights — must be addressed in a fair manner if peace, stability and development are to be sustainable. The Special Rapporteur regrets that OHCHR and civil society observers were prevented from entering the area where the shootings took place. In the interests of promoting trust and transparency, the Special Rapporteur believes it is important to allow independent monitors access.

60. On 22 March 2018, the seventh national consultation workshop on the tenth draft environment and natural resources code was conducted with the participation of various stakeholders. The process has been lengthy, but participatory. In November 2017, following the Prime Minister's order conveyed in a public speech, the Ministry of Agriculture, Forestry and Fisheries announced the suspension of the drafting process of the agriculture land law. The draft had been controversial, with farmers' groups and NGOs protesting against it because of its restrictions on the rights of small farmers.

VII. Evaluating the "democratic space"

61. During the year under review, the question of the application of the range of laws discussed in her report (see A/HRC/33/62, paras. 28–34), compounded by new laws and directives, continued to be an issue for the Special Rapporteur. An ever-increasing number of laws are being used in Cambodia to restrict free expression and political dissent. Charges of insurrection, incitement to commit a felony, bribery, defamation, forgery and conspiracy with foreign Powers have all been invoked during the year to charge independent or dissenting voices, including journalists and representatives of NGOs, or keep them in detention. The application of the provision in the Law on Associations and Non-Governmental Organizations that NGOs must be politically neutral is proving increasingly problematic when many activities deemed to be critical of the Government are considered "political".

62. In the letter to subnational authorities dated 2 October 2017 referred to above, the Minister of Interior stated that civil society organizations would be required to notify the commune and district authorities three days in advance of all activities, including education and training activities. Such reporting requirements appear to be contrary to the Law on Peaceful Demonstrations and associated implementation guidelines. Although the Government claims the reporting is necessary to ensure the safety of NGO staff and facilitate the training, it is understandable that NGOs and associations consider it to be an intrusive form of monitoring and control.

63. Recent revisions to the Criminal Code and Constitution, including the introduction and application of a lèse-majesté provision, have paved the way for further curtailment of freedoms. The adoption in May 2018 of the Inter-Ministerial Proclamation on Publication Controls of Website and Social Media Processing via Internet in the Kingdom of Cambodia, referred to above, increases surveillance of the Internet and social media while a National Election Committee statement on roles and duties of national and international observers issued the same month includes broad restrictions on freedom of expression which go beyond those permitted in the International Covenant on Civil and Political Rights. In practice, judicial actions continued to be brought against people for comments made on social media.

64. There has also been a reduction in freedom of the media in Cambodia. On 4 August 2017, the *Cambodia Daily* newspaper was served with a tax reassessment indicating tax arrears in the equivalent of some $6.3 million. The sum was due within 30 days and allegedly comprised tax owed plus interest. The paper's licence was not renewed and it published its final edition on 4 September, bringing to an end 24 years of independent reporting by the paper. Some 19 radio stations have been closed since August 2017. Radio is a major source of information in Cambodia so any restriction on licensing or access to bandwidths inevitably limits the freedom of Cambodians to receive information.

65. The Special Rapporteur raised a series of cases with the Government which she believed could lead to the creation of an atmosphere of fear and intimidation negatively affecting the right to freedom of expression of others, leading to self-censorship and inhibiting creative and responsible public debate on issues of public interest. This is particularly serious in the light of the national elections on 29 July 2018. Restricting Cambodians' voices could ultimately threaten the very stability that the Government and the people have worked hard to build. The freedoms of association, expression and peaceful assembly should be protected and developed, not restricted, in a multiparty liberal democracy.

VIII. Participation in the political process

66. The Special Rapporteur is concerned about developments in relation to participation in the political process during the last year. As noted above, the local commune/*sangkat*

IV. The 2017 local elections and its aftermath

16. In June 2017, the CPP won the majority of the positions, but the CNRP once again won approximately 44 per cent of the popular vote, consistent with its result in the 2013 National Assembly election.

17. The elections were generally commended as peaceful, orderly and overall transparent, with few reports of irregularities and a much-improved voter registration process.[51] There was nonetheless a tense pre-election environment and reports of Government intimidation. In particular, the Special Rapporteur received reports of opposition politicians being threatened and obstructed from campaigning, and of some civil society election-monitors subjected to intimidation and harassment.[52] In some instances, local CPP officials were apparently insisting ex-CNRP supporters to list their family members in CPP member books. Days before the election took place, senior officials reiterated the loyalty of the military to the ruling party and warned that civil war would erupt should the opposition win or the results of the communal elections be contested.[53] In a speech in Phnom Penh on 25 May 2017, the Prime Minister said that he was willing to eliminate 100-200 people to save millions.[54]

A. The dissolution of the CNRP

18. On 3 September 2017 Kem Sokha, leader of CNRP, was arrested on grounds of seeking to overthrow the Government in a foreign-backed so called 'color revolution'.[55] These were based on comments that he made in Australia in 2013 about his grassroots political strategy to challenge the current Government. Despite the passage of time, as the comments were still available online, this was deemed in flagrante delicto, and in accordance with internal rules of procedure, the National Assembly allowed the case to proceed without the need to lift his parliamentary immunity.[56] Kem Sokha was subsequently charged with conspiracy with a foreign power in 'fomenting hostilities or acts of aggression against Cambodia'. He remains in pre-trial detention as of August 2018, with restricted visitors, despite his detention having been found to be arbitrary by the United Nations Working Group on Arbitrary Detention in April 2018.[57]

19. Kem Sokha's arrest appears to have been followed by a general repression of CNRP members and supporters. Thereafter repeated information was received of CNRP meetings being interrupted and banners calling for release of Kem Sokha being destroyed in a number of provinces. OHCHR reported that some former members of the CNRP contacted them with respect to intimidation and threats of arrest by the police.[58]

20. In October 2017, following complaints made to it by FUNCINPEC and the Cambodian Youth Party, the Ministry of Interior submitted a request to the Supreme Court, under the aforementioned amendments to the Law on Political Parties, to dissolve the CNRP. On 16 November 2017, the Supreme Court, led by the Presiding Judge who is also a member of the CPP Standing Committee, dissolved the CNRP and banned 118 of its senior members from political activity for five years.[59] It is concerning that the evidence led by the Ministry of Interior and relied upon by the Supreme Court to dissolve the CNRP was in part the same allegations currently before the investigating judge in respect of the charges against Kem Sokha. No defence was submitted by the CNRP and the Supreme

[51] A/HRC/36/61, paras 59-60; A/HRC/36/32, para 17.
[52] A/HRC/36/61, para 63.
[53] A/HRC/36/32, para 16.
[54] https://www.cambodiadaily.com/editors-choice/hun-sen-goes-tirade-opponents-130441/.
[55] KHM 5/2017, https://spcommreports.ohchr.org/TMResultsBase/DownLoadPublicCommunicationFile?gId=23334; see also CCPR/C/51/D/414/1990 at para 6.8.
[56] Article 80, Constitution of Cambodia.
[57] A/HRC/WGAD/2018/9.
[58] A/HRC/37/64, para 6.
[59] See also CCPR/C/12/D/34/1978, paras. 8.4 and 9.

Court's judgment does not test the Government's evidence. This raises serious concerns as to the evidentiary basis for the decision to dissolve.

21. Pre-empting the decision of the Supreme Court, the National Assembly passed amendments to a range of electoral laws in October 2017. This provided the process for reallocating seats won by any dissolved party. Following these guidelines, on 22 November 2017, the NEC re-distributed the 55 CNRP National Assembly seats won in 2013 to three political parties (FUNCINPEC – 41, Cambodian Nationality Party – 2 and Khmer Economic Development Party – 1). Two other parties refused (League for Democracy Party and Khmer Anti-Poverty Party), so the 11 remaining ex-CNRP seats were subsequently reallocated to the CPP.

22. Commune positions won by CNRP in the June 2017 election were also reallocated by the NEC in December 2017. The CPP gained 4,548 from the CNRP's 5,007 councillor positions and all 489 CNRP commune chief positions. Of the remaining commune councillor positions, 240 were given to FUNCIPEC, 203 to the Khmer National United Party, 10 to the Cambodian Nationality Party and three each to the Cambodian Youth Party and the Cambodia Indigenous People Democracy Party. The League for Democracy Party and the Grassroots Democratic Party refused to accept reallocated seats.

23. This reallocation raises serious questions with respect to the political representation of a significant portion of Cambodians, and further mars an already questionable dissolution process. The redistribution of seats effectively deprives millions of Cambodians of their rights of political participation. For those who voted CNRP in the 2013 national elections and the 2017 local elections, the candidates they elected were replaced by unelected people representing other political parties, who will retain this mandate until 2022 in the case of the local officials. The right to take part in the conduct of political affairs envisages the right to be represented through chosen representatives. The prospects raised in 2013 and 2017 of peaceful elections that could lead to a democratic change of Government had quickly receded.

24. The elections to the Senate took place on 25 February 2018. Of the 62 senators, 58 are indirectly elected by members of the Commune/Sangkat Councils and the National Assembly (of the remaining, two are appointed by the King and two by the National Assembly). The elections were practically uncontested as CNRP commune and National Assembly seats (approximately 43 per cent of the electorate for the senate elections) had been reallocated. The CPP controlled around 95 per cent of the electorate, and secured all 58 elected seats in the Senate. While the Senate elections are indirect, the result reflects the deprivation of millions of Cambodians of their political rights as a result of the redistribution of seats at the communal level, and may remain so for the next six years.

B. Impact on the rights of specific individuals and groups

(a) Members and supporters of the CNRP

25. Following the Supreme Court decision, reliable information was received of many ex-CNRP members facing increased pressure and intimidation, usually to get them to 'defect' to the CPP. For example, senior ex-CNRP officials in Kampong Chhnang were threatened on 18 November by senior Government and police officials with imprisonment if they refused to join the CPP. Over 50 ex-CNRP officials in Kampong Chhnang province had switched to the CPP by end-November 2017 to hold on to their positions. In another instance, an ex-CNRP leader in north-western Cambodia reported intimidation by a local military commander, accompanied by thirty armed soldiers, after he refused to defect to the CPP. Others reported similar incidences in different provinces.

26. Some refused to defect, including 38-year-old Mr. Chhun Sithy, an ex-CNRP commune councillor in Pailin, who was arrested without warrant on 24 October 2017. According to information received, police questioned him with respect to a three-minute video posted on Facebook where he responded to the 22 October call by the Prime Minister to CNRP members to defect and keep their jobs. In the video, Mr. Sithy apparently doubted the smartness of the Prime Minister in offering money and said that he would not accept

elections passed peacefully with few reported irregularities, setting new benchmarks for transparency in electoral processes in Cambodia. There were nonetheless significant reports of restrictions placed on political parties and the media as well as threats and intimidation prior to the election. The National Assembly adopted a series of amendments to laws affecting political processes in the last year. Amendments made to the Law on Political Parties in March 2017 were reported in the previous report (see A/HRC/36/61, para. 8). These new powers have been invoked.

67. The founder and President of the Khmer Power Party, Sourn Serey Ratha, was detained in August 2017 following a Facebook post criticizing the military's deployment near the border with the Lao People's Democratic Republic. He was convicted of incitement and sentenced to five years' imprisonment. A new President, Soung Sophorn, was swiftly appointed to ensure that the party did not come into conflict with the amended Law on Political Parties. Also in August, Nhek Bun Chhay, President of the Khmer National United Party, was arrested in connection with 10-year-old allegations of drug production. He had previously been a commander in the armed forces and, until June 2017, had held the post of adviser to the Government. The only non-CPP/CNRP commune chief to be elected on 4 June was a member of his party. He was released under judicial supervision in May 2018.

68. In July 2017, the National Assembly introduced the next set of amendments to the Law on Political Parties preventing any political party from associating with or using the voice messages, images, written documents or activities of a person convicted of a felony or misdemeanour. Any party so doing can be banned from political activities for five years, prohibited from involvement in elections or even dissolved.

69. As the Special Rapporteur reported in her oral presentation to the Human Rights Council at its thirty-sixth session, the leader of CNRP, Kem Sokha, was arrested on charges related to comments he had made in 2013 about his grass-roots political strategy to challenge the current Government. He was subsequently charged with conspiracy with a foreign Power, an act implying "fomenting hostilities or acts of aggression against Cambodia"; the foreign Power was allegedly the United States of America. He remains in pretrial detention in Correctional Centre 3. The Special Rapporteur was refused permission to meet with him in March 2018.

70. In October 2017, following the receipt of complaints from FUNCINPEC (National United Front for an Independent, Neutral, Peaceful and Cooperative Cambodia) and the Cambodian Youth Party, the Ministry of Interior submitted a request to the Supreme Court, under the amendments to the Law on Political Parties, to dissolve CNRP. At the same time, while the case was being considered, amendments to a range of electoral laws were passed that provided a process for reallocating seats won by a party that had been dissolved.

71. On 16 November 2017, the Supreme Court dissolved CNRP and banned 118 senior members of the opposition from political activity for five years. The Special Rapporteur is concerned that the evidence provided by the Ministry of Interior, and relied upon by the Supreme Court in its decision to dissolve CNRP, was in part the same evidence that is currently before the investigating judge in respect of the charges against Kem Sokha. The Supreme Court's judgment does not contest that evidence and no defence was submitted by CNRP, raising serious concerns as to the basis for the decision to dissolve the party.

72. Many CNRP party members have since fled the country, and members have reported intimidation by the authorities and pressure to "defect" to the ruling CPP.

73. After the party was dissolved, the National Election Committee redistributed the National Assembly seats won by CNRP in 2013. Three parties accepted seats (FUNCINPEC, the Cambodian Nationality Party and the Khmer Economic Development Party); two parties refused (the League for Democracy Party and the Khmer Anti-Poverty Party), and the seats were reallocated to CPP.

74. Commune/*sangkat* positions won by CNRP (over 43 per cent of the total) in the June 2017 election were also reallocated by the Committee in December 2017. CPP gained most of the positions: 4,548 of the 5,007 CNRP councillor positions and all 489 CNRP commune chief positions. Of the remaining commune councillor positions, 240 were given

to FUNCINPEC, 203 to the Khmer National United Party, 10 to the Cambodian Nationality Party and 3 each to the Cambodian Youth Party and the Cambodia Indigenous People Democracy Party. The League for Democracy Party and the Grassroots Democratic Party refused to accept the reallocated seats.

75. In the Senate, two senators lost their seats following the dissolution of CNRP. CNRP did not contest the commune/*sangkat* elections in 2012, as it was formed later by a merger of the Sam Rainsy Party and the Human Rights Party, both of which held Senate seats. Only commune councillors and National Assembly members participate in the indirect election of senators, meaning that CPP was holding around 95 per cent of seats following redistribution. The election for the full Senate was held in February 2018 with CPP winning all 58 elected seats (2 seats are appointed by the King and another 2 seats by the National Assembly).

76. The effect of these amendments to laws and the consequent redistribution of seats is to deprive millions of Cambodians of their right to political participation. For those who voted CNRP in constituencies which CNRP won, the candidates they voted for in the 2013 National Assembly elections and the 2017 commune elections have been replaced by different people representing different political parties, which in turn has had an effect on the election of senators. This situation raises serious concerns about the right to take part in the conduct of political affairs, which envisages the right to be represented through chosen representatives.

77. The Special Rapporteur notes that three members of the National Election Committee left their seats following the dissolution of CNRP as they were members appointed by CNRP (the composition of the Committee was split between CPP and CNRP following the adoption of the "culture of dialogue" resolution in July 2014, with the remaining seat representing civil society). The new appointees, whose nominations appeared to be inconsistent with the provisions of the Law on the National Election Committee, were approved by the newly reconfigured National Assembly in December.

78. Cambodia proclaims itself a multiparty liberal democracy (art. 51 of the Constitution). At the end of an extended period of registration of political parties wishing to contest the July 2018 national election, the National Election Committee had registered 20 political parties, many of them newly formed. The Special Rapporteur was reminded that 25 years ago, the United Nations Transitional Authority in Cambodia oversaw 20 political parties, many newly formed, contesting the first election after the Agreements on a Comprehensive Political Settlement of the Cambodia Conflict were signed in Paris in 1991. Nevertheless, no election can be considered genuine if the main opposition party is barred from taking part and 118 of its senior members are prohibited from standing.

IX. Administration of justice

79. The Special Rapporteur was pleased to learn that the Ministry of Justice has had an increase in its budget and is now making progress on a number of long-discussed initiatives. Some 23,000 cases have now been registered on the electronic criminal court cases database and the Ministry noted in discussions the possibility of developing a central criminal database, thereafter integrating civil cases and rolling out a comprehensive electronic case management system. The Special Rapporteur also welcomes the additional increase in funding for legal aid and the development of a national legal aid policy, and urges the Government to fully develop and adequately resource this policy.

80. The Special Rapporteur remains concerned at inconsistency in the use of evidence in criminal cases. Article 321 of the Criminal Procedure Code is the principal legal provision in this regard; there is no further guidance on evaluating evidence. While she notes the Government's indication that the stipulations in the Criminal Procedure Code are sufficient guidance for judges, practice concerning evidence varies. For example, there have been examples of judges in the Court of Appeal overturning convictions owing to a lack of evidence, but practice is not the same across all cases. As referred to above, the Supreme Court's decision to dissolve CNRP raises serious concerns as to the use of evidence. The Ministry of Justice should consider developing clear guidelines on appropriate standards

and evaluation of evidence. Lessons may be learned from the work of the Extraordinary Chambers in the Courts of Cambodia.

81. In March 2018, the Special Rapporteur took the opportunity to meet with senior court officials. She warmly welcomed the work in the Court of Appeal on strengthening judicial reasoning and the discussion on publishing decisions. Greater transparency in judicial decision-making should lead to greater legal certainty, more consistent decisions on evidence and the application of the law, thereby strengthening public confidence in the judiciary. Publishing decisions and reasoning would also be of benefit to universities and the Royal Academy of Judicial Professions in their important work on educating future legal professionals. The plans to fully train and then deploy Court of Appeal judges to regional courts of appeal are also encouraging. This will make justice more accessible and remove the necessity of so many detainees having to travel to Phnom Penh for appeal hearings.

82. The Special Rapporteur urges the Ministry of Justice to push forward with its local judicial service centres and associated education programme to support the greater use of judicial supervision (rather than pretrial detention) and to complement the planned expansion of alternatives to custodial sentencing.

83. Two cases are ongoing at the Extraordinary Chambers in the Courts of Cambodia. Closing statements in case 002/02, the second against Nuon Chea and Khieu Samphan, concluded on 23 June 2017. Judgment is expected in 2018. Case 003 against Meas Muth reached the stage of final submissions by the co-prosecutors in November 2017. Case 004 against Im Chaem, Ao An and Yim Tith was severed into three separate case files. On 5 September 2017 the investigation in case 004 was closed for the second time.

X. Treaty body reporting and the universal periodic review

84. Cambodia still has a number of periodic reports overdue to the treaty bodies: the third report on the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment; the initial report on the International Convention for the Protection of all Persons from Enforced Disappearance; the initial report on the Convention on the Rights of Persons with Disabilities and the combined fifth and sixth reports on the International Covenant on Economic, Social and Cultural Rights. The combined fourth to sixth reports on the Convention on the Rights of the Child was due in May 2018, and the Special Rapporteur understands that it will be submitted shortly. The combined fourteenth to sixteenth reports on the International Convention on the Elimination of All Forms of Racial Discrimination was submitted in March and the sixth report on the Convention on the Elimination of All Forms of Discrimination against Women was submitted in April. All other overdue reports are currently being drafted.

85. The third report on the International Covenant on Civil and Political Rights is due during the next reporting period.

86. The national report for the third cycle of the universal periodic review should be submitted in November 2018 as Cambodia is scheduled to be reviewed by the Human Rights Council working group at its thirty-second session (January/February 2019). The Special Rapporteur encourages the Government to engage in a collaborative effort to consult with a variety of stakeholders during the drafting process, including with civil society organizations, as well as to adopt an implementation plan following the review, and indeed for reporting to treaty bodies. The newly established Inter-Ministerial Working Group directing reporting work on human rights in Cambodia to the United Nations should provide an opportunity to consolidate best practices for collaborative and participatory drafting processes and follow-up through agreed implementation plans.

XI. Communications to the Government

87. Between June 2017 and June 2018, there were a welcome number of responses to communications sent to the Government. During that time 11 communications — 5 urgent

appeals, 2 allegation letters and 4 other letters were communicated to the Government. They were issued by the country mandate and/or other special procedure mechanisms. The Special Rapporteur issued eight press releases. The predominant subjects were political participation and freedom of expression.

88. In addition, on 19 April 2018, the Working Group on Arbitrary Detention determined that the ongoing detention of Kem Sokha was arbitrary (A/HRC/WGAD/2018/9). The Government acknowledged receipt of the communication from the Working Group but has not yet responded to provide its views.

XII. Conclusions

89. The overall human rights situation in Cambodia has suffered over the past year. On one hand, the ongoing economic growth that Cambodia is enjoying has paved the way for improvements in the area of economic and social rights, in particular, social protection, minimum wage and maternity leave. The Government has also submitted its sixth report to the Committee on the Elimination of Discrimination against Women, which will help promote dialogue on gender equality, and its combined fourteenth to sixteenth reports to the Committee on the Elimination of Racial Discrimination. While these are welcome developments, there has been regression in the area of political rights and enjoyment of fundamental freedoms. The dissolution of CNRP and the imprisonment of its President, Kem Sokha, the banning of 118 CNRP officials from political activity for five years and the reallocation of CNRP seats to unelected representatives have seriously strained political rights. Developments in law, policy and practice, including amendment of the Constitution to introduce a lèse-majesté law, have targeted critical and dissenting voices and significantly curtailed fundamental freedoms. These developments are grave. For economic development to be sustainable, the indivisibility of rights dictates that respect for civil and political rights should accompany improvements in economic and social rights.

90. Reflecting on Cambodian history, the Special Rapporteur reiterates that human rights are crucial for durable peace, stability and development. The vision based on the Charter of the United Nations and in the 2030 Agenda for Sustainable Development underlies the Sustainable Development Goals. It is also reflected in Cambodia's Constitution, which states that Cambodia is to be an "oasis of peace" based on a liberal multiparty democratic system guaranteeing human rights and respect of law and progressively developing the nation.

91. Given the dramatic economic development and progress in Cambodia, it is now timely to focus on securing the Sustainable Development Goals and developing action plans with concrete targets to ensure that all Cambodians can equally share the benefits of that development. The Special Rapporteur looks forward to receiving the localization plan for the Goals and to working with the Government, development partners and civil society towards securing those goals. She therefore intends to focus her next report on the human rights aspects of the localization of the Goals.

XIII. Recommendations

92. The Special Rapporteur reiterates her willingness to work with the Government to protect, respect and promote human rights for the benefit of all people in Cambodia. By way of supporting the Government in making tangible progress towards implementing the range of recommendations, and in pursuance of discussions thereon, the following recommendations are highlighted for immediate action. The Government should:

(a) Convene a national conference in 2019, with the participation of civil society organizations, donors and United Nations agencies, to prepare a coordinated plan for the implementation of recommendations from the universal periodic review, treaty bodies and special procedures;

(b) **Finalize and publish the localization plan and policies for achieving measurable success in attaining the Sustainable Development Goals;**

(c) **Simplify the process for granting communal land titles and set out a plan with objectives to do so;**

(d) **Where this is not already the case, ensure that the list of court fees is publicly displayed in Khmer in all courts and that any additional fees that clerks may legitimately charge are also verified and publicly displayed;**

(e) **Ensure that the notices indicating that no payments can be made to prison guards or other staff at prisons are clearly displayed in Khmer at the entrance to all detention centres;**

(f) **Develop a manual on the collection, evaluation, use and storage of evidence to strengthen the administration of justice;**

(g) **Continue and expedite the compilation of key decisions of courts of first instance, appeal courts and the Supreme Court;**

(h) **Provide guidelines from the Supreme Council of the Magistracy to all judges to use the pretrial detention form as a means to encourage reasoned judgments for related decisions, and seek capacity-building support as required;**

(i) **Release all detainees who have been charged and imprisoned without sufficient substantiated evidence and who were arrested due to their political affiliations, human rights work or the expression of their opinions;**

(j) **Remove the ban on the 118 former CNRP members from engaging in political activities and restore the former CNRP commune council seats and chief positions to those elected in June 2017.**

93. **The following recommendations are highlighted for consideration to determine the best way to ensure that law and practice comply with international human rights standards. The Government should:**

(a) **Repeal provisions of the Criminal Code that can be used to restrict the freedoms of expression, assembly and association in order to achieve greater compatibility with international human rights standards, decriminalizing offences such as defamation;**

(b) **Ensure that the final version of the environmental and natural resources code takes into consideration the inputs of civil society and United Nations agencies;**

(c) **Increase efforts to systematically record and report legal cases with a summary of the reasoning and provide comprehensive training to the judiciary on the contents of the manual on evidence, once finalized;**

(d) **Increase efforts to minimize pretrial detention and the use of non-custodial sentencing in appropriate cases, supporting this with public awareness-raising and information campaigns;**

(e) **Introduce practical guidelines on alternative sentencing to enforce the Law on Juvenile Justice and relevant provisions of the Criminal Code;**

(f) **Increase efforts to publish the judicial decisions of all courts;**

(g) **Provide, through the Ministry of Economy and Finance, sufficient budgetary allocations for the communal land titling process as well as for legal aid;**

(h) **Use interim measures for indigenous communities under article 23 (2) of the Land Law 2001 with a view to halting all forms of land transactions until the community concerned has received a final decision on its communal land title claim;**

(i) **Ensure that centres housing users of drugs and other substances as well as centres supporting persons with psychosocial and other disabilities are adequately resourced and meet relevant international standards;**

(j) **Undertake a review of the national anti-drug programme, including from a human rights perspective;**

(k) **Work towards a rolling timetable for ensuring that reporting requirements under the United Nations treaties are met in a timely manner.**